

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

GERALD MARSHALL, §
Petitioner, §
§
v. § CIVIL ACTION NO. 4:14-CV-3438
§
BOBBY LUMPKIN, §
Respondent. §

MOTION TO SUBSTITUTE COUNSEL

On August 20, 2020, Mr. Marshall filed a pro se Motion for Appointment of New Counsel Because of a Conflict of Interest. Doc. 102. In the Motion, Mr. Marshall requested that this Court remove his current attorneys, the Federal Public Defender's Office for the Northern District of Texas ("FPD-TXN") and Nicole DeBorde. Pursuant to this Court's order, Doc. 103, undersigned counsel filed an *ex parte* sealed response to Mr. Marshall's motion. Doc. 105. Subsequently, this Court entered a sealed order and then temporarily suspended the briefing schedule in this case. Doc. 106; Doc. 108.

In light of those sealed pleadings, undersigned counsel requests that this Court grant Mr. Marshall's request for the substitution of counsel. *See Martel v. Clair*, 565 U.S. 648, 658 (2012) (explaining that substitution of counsel is warranted when it is in the "interests of justice"). The FPD-TXN and attorney DeBorde request permission to withdraw as counsel for Mr. Marshall. Further, that the Capital Habeas Unit of the Federal Public Defender's Office for the Eastern District of California ("FPD-CAE") be appointed as counsel for Mr. Marshall. Yesterday, the FPD-CAE completed the necessary administrative approvals to represent Mr. Marshall and received

formal permission to be appointed as counsel in this case. Mr. Marshall has also informed the FPD-TXN that he is amendable to the FPD-CAE being substituted as counsel.

The contact information for the FPD-CAE is as follows:

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Consistent with the information presented in undersigned counsel's sealed response, the FPD-CAE requests that this Court reset the deadline for filing Mr. Marshall's reply to six months from the date of its appointment. Doc. 105, Ex. 1 (Declaration of David H. Harshaw III).

Due to these matters currently being *ex parte* and/or under seal by order of this Court, the undersigned has not conferreded this motion with counsel for the Director, as adequately doing so would require discussion of those sealed matters.

CONCLUSION

For the foregoing reasons, undersigned counsel respectfully requests that this Court grant this motion and allow the FPD-TXN and attorney DeBorde to withdraw as counsel, and the FPD-CAE be substituted in as counsel for Mr. Marshall.

Respectfully Submitted,

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CERTIFICATE OF CONFERENCE

I hereby certify that I have not conferred this motion with counsel for the Director, as adequately doing so would require discussing matters that are filed *ex parte* and/or under seal.

/s/ Jeremy Schepers
Jeremy Schepers

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing motion has been served by CM/ECF upon counsel for Respondent on November 4, 2020:

Rachel L. Patton
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/s/ Jeremy Schepers
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